

**MARSHALL DENNEHEY
WARNER COLEMAN & GOGGIN**

ATTORNEYS-AT-LAW WWW.MARSHALLDENNEHEY.COM

A PROFESSIONAL CORPORATION

425 Eagle Rock Avenue, Suite 302 · Roseland, NJ 07068
(973) 618-4100 · Fax (973) 618-0685
Joseph A. Manning, Resident Managing Attorney

Direct Dial: 973-618-4173
Email: baseidman@mdwecg.com

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September 4, 2014

VIA ECF AND REGULAR MAIL

The Hon. Jesse M. Furman, U.S.D.J.
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312



RE: Stephanie Sanz, et al. V. Johny Utah 51 LLC d/b/a Johnny Utah's, et al.
Case No.: 1:14-cv-04380-JMF
Claim No.: A00038608
Our File No.: 07051.00566-HAF

Dear Judge Furman:

This office represents the defendants, Johny Utah 51 LLC d/b/a Johnny Utah's, Robert Werhane, John Sullivan, Thomas Casabona and J.R. Lozada (collectively "Defendants"), in the above-captioned matter. As directed in Your Honor's Order dated September 2, 2014, the Defendants consent to a preliminary certification of a collective action under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201 *et seq.*, subject to the ability to confer with Plaintiffs' counsel regarding the language of the notice, which if cannot be resolved by agreement between the parties it is respectfully requested that any discrepancies be resolved by the Court.

The Defendants reserve the right after discovery to move for decertification of the collective class. The Defendants are not consenting to the certification of the alleged class pursuant to Rule 23 for all female service employees' claims alleging violations of the New York State Human Rights Law under § 290 *et seq.*, and § 296 as amended, and the New York City Human Rights Law, Article 1, Section 8 of the New York City Administrative Code, § 8-101 *et se.*

It is respectfully requested that since the Defendants are consenting to the preliminary certification of the collective class under FLSA, the pending motion be withdrawn, or alternatively, the Defendants be provided the opportunity to object and oppose the allegations therein. In an effort to set forth objections to the various

The Hon. Jesse M. Furman, U.S.D.J.

September 4, 2014

Page 2

allegations contained in the pending motion, it is respectfully submitted that all allegations of willful wrongdoing and allegations of discrimination and/or work place wrongdoing are denied by the Defendants.

Plaintiffs allege that court intervention is warranted because "sometime in early July, Mr. Rojas received multiple messages on his cellular telephone from a person who identified himself as 'the lawyer for Tommy Casabona and J.R. Lozada,'" and "Mr. Rojas believes the person's first name was 'Vic' or 'Rick'." These allegations imply that this unidentified person was retained as an attorney by some of the Defendants, this allegation is denied. Allegations concerning any improper contact by the Defendants with "potential class members" are denied.

Respectfully submitted,

/s/ Bruce A. Seidman

Encls.

Cc: Jeanne Christensen, Esq. (via ECF, w/ encls.)

Clients (via email, w/ encls.)

K.M. (via email, w/ encls.)

Counsel should confer on the language of a proposed order, proposed notice, and proposed consent form in advance of the conference on September 9, 2014, and be prepared to address the status of those discussions and a deadline for submitting proposed materials (or any dueling proposals) to the Court. Counsel should consider as potential models for those materials the order, notice, and consent form in *Saleem v Corporate Transportation Group*, 12-cv-8450-JMF (Document 67). Counsel should be prepared to discuss the other aspect of Plaintiffs' motion at the September 9, 2014 conference.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Jesse M. Furman", is written over the text "SO ORDERED."

September 4, 2014